

Complaint Procedures

A. Overview

These procedures cover complaints filed under 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, 23 CFR Part 230 – External Programs and A.R.S. §28-6924 – Progress Payments. These procedures do not cover discrimination complaints made against any employee, section, division or subrecipient of the Arizona Department of Transportation (ADOT). Any complaints in which a person or specific classes of persons believe they have been subjected to discrimination on a Federal aid program or activity involving ADOT or a Local Public Agency (LPA) will not be accepted by the Business Engagement & Compliance Office (BECO) and must be filed with the ADOT Civil Rights Office (CRO) Title VI Program Manager.

B. Acceptance of Complaints

Upon receipt of the formal complaint, BECO will determine its jurisdiction, acceptability, or need for additional information before initiating its investigation.

1. Acceptance of a complaint will be determined by:
 - a. Whether the allegations involve a Federal-aid project;
 - b. Whether the complaint is timely filed;
 - c. Whether the allegations involve an external EEO contract issue or DBE program or activity;
 - d. Whether the complaint is beyond the administrative authority of BECO.
2. A complaint may be dismissed for the following reasons:
 - a. The complainant requests the withdrawal of the complaint in writing;
 - b. The complainant fails to respond to repeated requests for additional information needed to process the complaint, or otherwise fails or refuses to cooperate in the investigations;
 - c. The complainant cannot be located after reasonable attempts to contact him or her.

C. BECO Investigators

Applicable BECO staff will lead the investigation, gather information and facts and conduct interviews with the appropriate parties as needed. The investigator will analyze all facts to include documentation and draft the investigative report to be provided to the BECO Manager. The following BECO staff members would act as investigator(s) on any complaint as applicable:

1. Equal Employee Opportunity (EEO) Officer
2. Contract Compliance Program Manager
3. Local Public Agency (LPA)/Subrecipient Program Manager
4. Field Compliance & Training Manager
5. Certification Program Manager

All other BECO staff shall provide guidance on procedures to individuals who wish to file a complaint and shall assist with investigations where appropriate.

D. Procedure

1. Any contractor, subcontractor or Arizona certified Disadvantaged Business Enterprise (DBE) firm believing that they have been unduly affected by an alleged incident or discrepancy prohibited by the legal provisions of 23 CFR Part 230, 49 CFR Part 26 and A.R.S. §28-6924 may file a written complaint with BECO.
2. A formal complaint must be filed within 90 calendar days of the date of the alleged incident or discrepancy.
3. Complaints include but are not limited to:
 - a. Non-payment
 - b. Reduction in payment
 - c. Reduction in scope of work
 - d. Termination or Substitution
 - e. Allegations of DBE Fraud
 - f. External EEO contract related complaint
4. Complaint must meet the following requirements:
 - a. Complaint shall be in writing and signed by the complainant(s) and must include the complainant(s) name, address, phone number and email address.
 - b. Specify date of the alleged incident or discrepancy; date when the complainant(s) became aware of the incident(s); or the date on which it was discontinued or the latest alleged instance(s).
 - c. Identify Prime contractor's or subrecipient's name, contract number, name of project, and date(s) complainant worked on the project.

- d. Include a detailed description of the issues including names and job titles of parties involved who are perceived as having knowledge of or witnessed the alleged incident or discrepancy.
 - e. Allegations received by telephone or in person will be reduced to writing and provided to the complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign, and return to BECO for processing.
5. Within 14 calendar days of receipt of the complaint, BECO will acknowledge its receipt to the parties involved as well as the course of action to be undertaken on the formal complaint. The course of action may include acceptance of the complaint for investigation, request for additional information or rejection of the complaint. The complaint will receive a case number and logged in BECO's records identifying the basis of the complaint.
6. If BECO determines it's a valid complaint, BECO will contact all the affected parties (i.e., ADOT Project Manager, Resident Engineer, District Engineer, any other ADOT departments, Contractor, etc.) as deemed appropriate in order to gather facts about the complaint.
7. Depending on the complexity of the complaint, BECO will draft an investigative report within 60 days from BECO's acknowledgement of the complaint detailed in Step 5 above.

E. Investigative Report

A draft investigative report will be provided by the BECO Investigator for BECO Manager's review. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations.

1. BECO Manager has 14 calendar days to review the report and any recommendations or discuss with the investigator to address any modifications to the draft investigative report. The report will be modified as needed for a final version.
2. BECO's final investigative report with the preliminary finding(s) and a copy of the complaint may be forwarded to the Arizona Attorney General's Office, the State Engineer's Office or any other ADOT department deemed necessary by BECO.
3. BECO will notify all parties of its findings.
4. BECO's final determination is not subject to administrative appeal.

F. Remedial Action

When irregularities occur in the administration of Federal-aid highway or other federally funded programs at either ADOT or subrecipient levels, corrective action may be taken to resolve identified issues. The BECO Investigator will seek the cooperation from complainant, respondent, ADOT departments, where applicable, in addressing deficiencies found during an investigation. BECO will provide technical assistance and guidance, upon request, to support compliance. When conducting an investigation, the BECO Investigator will document any recommended remedial action agreed upon among the parties affected.